

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BRADFORD K. JONES,	§
	§
Defendant Below-	§ No. 321, 2004
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0201008286
Plaintiff Below-	§
Appellee.	§

Submitted: June 17, 2005  
Decided: August 22, 2005

Before **STEELE**, Chief Justice, **HOLLAND** and **JACOBS**, Justices.

**ORDER**

This 22nd day of August 2005, upon consideration of the parties' briefs and the record below, it appears to the Court that:

(1) This is defendant Bradford Jones' direct appeal from his life sentence for Murder in the First Degree and related charges. After Jones' trial counsel filed the opening brief on appeal and the State filed its answering brief, Jones filed a motion to dismiss his counsel and represent himself on appeal. Notwithstanding the untimeliness of his request, this Court remanded the matter to the Superior Court for an evidentiary hearing and recommendation on Jones' motion. Thereafter, Jones' motion was granted and his counsel was dismissed. The Court then withdrew the

previously filed briefs and re-issued a new brief schedule to allow Jones to file his own opening brief on appeal.

(2) The only issue Jones raises on appeal is a challenge to the search warrant. Jones claims the search warrant was issued as a result of deliberate falsehoods contained in the police officer's affidavit of probable cause. Thus, Jones argues, the evidence seized during the search, including the photograph of Jones taken by police during the course of the search, and any subsequent witness identifications using the photograph were tainted and should have been suppressed as "fruits of the poisonous tree."<sup>1</sup>

(3) Jones did not file a motion to suppress in the Superior Court in the first instance.<sup>2</sup> In the absence of a defense motion to suppress and a pretrial suppression hearing, there is not an adequate record upon which to conduct an appellate review of Jones' claim.<sup>3</sup> Jones' failure to raise the veracity of the officer's affidavit as an issue below limits the scope of our review to plain error.<sup>4</sup> Plain error is "limited to material defects" that are apparent on the face of the record and that "are basic, serious and

---

<sup>1</sup> *Wong Sun v. United States*, 371 U.S. 471 (1963).

<sup>2</sup> *Franks v. State*, 398 A.2d 783, 786 (Del. 1979) (holding that in "cases attacking the veracity of a sworn statement used by police to procure a search warrant the procedural requirements of [Superior Court Criminal] Rule 41(e) [dealing with motions to suppress] must be strictly adhered to").

<sup>3</sup> *Tricoche v. State*, 525 A.2d 151, 154 (Del.1987).

<sup>4</sup> Del. Supr. Ct. R. 8.

fundamental in their character, and which clearly deprive an accused of a substantial right, or which clearly show manifest injustice.”<sup>5</sup> There is no evidence in this record of plain error on the part of the Superior Court.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland  
Justice

---

<sup>5</sup> *Wainwright v. State*, 504 A.2d 1096, 1100 (Del.1986), *cert. denied*, 479 U.S. 869 (1986).